



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

Mitchell E. Daniels, Jr.
Governor

Thomas W. Easterly
Commissioner

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April 8, 2010

Mr. Bharat Mathur
Acting Regional Administrator
US EPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590

Dear Mr. Mathur:

RECEIVED

APR 12 2010

U.S. EPA REGION 5
OFFICE OF REGIONAL ADMINISTRATION

Thank you for your letter of March 9, 2010, regarding EPA's concerns over Indiana's National Pollutant Discharge Elimination System (NPDES) general permit program. The Indiana Department of Environmental Management (IDEM) is aware of the problems you outlined and has devised a plan to rectify the situation as quickly as possible. Because the solution to these problems involves both statutory and regulatory amendments, IDEM will move as expeditiously as possible to address both the issues raised.

As you are aware, currently all of the NPDES general permits issued by IDEM are in the form of "permits by rule", as required under 327 IAC 15, specifically 327 IAC 15-2-4. IDEM believes, however, that Indiana's NPDES general permits can be administratively issued by amending the rules in Title 327 that refer to or require general permits to be permits by rule. As the general permit by rule requirement has been in place for many years, several Indiana statutes currently refer to general permits by rule. These statutes would also require amendment. The earliest the statutes could be amended would be during the 2011 session of the Indiana General Assembly, commencing in January 2011. IDEM plans to request statutory amendments coincident with instigating the rulemaking required to eliminate the general permit by rule requirements from Title 327.


Of course many other tasks will be involved in assuring a smooth transition from the permit by rule program to an administratively-issued program. IDEM intends to begin outreach and education on the required steps with all affected parties in the spring and summer of this year while developing draft general permits and amended notice of intent forms to ready them for public comment and issuance when the necessary statutory and regulatory amendments are complete.

IDEM will remain in communication with Region 5 staff during this transition process to assure that the concerns over the current program are appropriately addressed. IDEM's movement to administratively-issued general permits will alleviate the conflict of interest concern raised by having a board member employed by a NPDES permit holder issuing permits through rules. Additionally, administratively-issued general permits can be reopened every five (5) years for comment and review, as required under Section 402 of the Clean Water Act, much more easily than attempting to readopt all the general permit rules every five (5) years.

Attached to this letter is an estimated timeline to cover all the necessary tasks to transition from NPDES general permits by rule to administratively-issued general permits.

Again, thank you for your letter of March 9th. If, after reading this, you have additional questions or need further information, please do not hesitate to contact Nancy King at (317) 232-7694.

Sincerely,



Thomas W. Easterly
Commissioner

Attachment

Estimated Timeline:

Steps	Date	Status
Initial meeting to discuss devising a plan for conversion	5-Mar-10	Complete
Receipt of EPA letter address general permit concerns	3/11/2010	
Development of a written memorandum	Mar-10	
Providing EPA with plan to address concerns	Mar-10	
Develop draft legislation re: general permits	May-10	
Begin educational outreach on legislative changes needed	July/August	
(Address the envi. crimes issue as mentioned in the EPA letter?)		
Develop draft administrative versions of General Permit rules	In process	
This should include all required federal updates, nothing more		
Determine Necessary Rule changes associated with conversion	In process	
- Rule Deletions		
- Rule Revisions		
- Portions of General Permit rules that stay in place		
Ongoing discussions with Region V staff on proposed program changes	2010	
Begin educational outreach on administrative changes needed	Summer 2010	
Meetings with Stakeholders to present broad based plan	Late 2010	
- Meetings with Permittee stakeholders		
o MS4 stakeholders		
o Rule 5 stakeholders*		
o Rule 6 stakeholders*		
o Coal Mine stakeholders*		
o Noncontact cooling water stakeholders*		
o Petroleum Products Terminals stakeholders*		
o Ground water petroleum remediation system stakeholders*		
o Commercial Pipeline stakeholders*		
o Sand/Gravel Stakeholders*		

○ New Pesticides General Permit—Ag & other affected groups		
• Stakeholders could include representatives from the following:		
○ Chamber of Commerce		
○ IMA		
○ IACT		
○ Beranek		
○ AWWA/IRWA/IWEA		
- Meetings with Environmental Groups, including:		
○ HEC		
○ Sierra Club		
○ ELPC		
Drafts of administrative general permits sent to stakeholders	Late 2010	
This should include all required federal updates, nothing more		
Amend State Forms for Notices of Intent	Fall 2010	
Gov office approval of Legislative Changes necessary	Fall 2010	
to implement conversion	Fall 2010	
Proposed Statutory Changes introduced in legislature	Jan-11	
First Notice Administrative Rule changes	Jan-11	
Second Notice Rule changes	Mar-11	
Statutory Changes passed (emergency status—effective upon signature)	April, 2011	
Preliminary Adoption of rule changes	May-11	
Submit new NOI state forms for approval	Summer 2011	
Final Adoption of rule changes	July, 2011	
Rules will have effective date to coordinate with effective date of new Administrative general permits.		
Submittal of rules to AG for approval	August, 2011	
Administrative General Permits public notice		
With 30 day written comment period	July, 2011	
Respond to written comments on general permits	August, 2011	
Rules effective		
Coordinate with effective dates of admin general permits	Fall 2011	

Develop amendment to NPDES MOA with EPA for EPA		
Program approval	Fall 2011	
Make new NOIs available to permittees	Fall 2011	
Final Issuance of each general permit for 5 year term	Late 2011/2012	

